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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,716	05/28/2002	Paul A. Davignon	81503	5300

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EXAMINER

LOPEZ, MICHELLE

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,716

Applicant(s)

DAVIGNON ET AL.

Examiner

Michelle Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1,7-9, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper (US Pat. 6,129,206). Cooper discloses the invention substantially as claimed including a connector as a thin and straight filament “15” with a first and a second end cross members “17” and “19” at a first and second end, cross-members with a flat inner surface and a flat outer surface (see Fig. 3), a connector “15” formed onto the approximate center of the inner surface of the first cross member, a fastener constructed of plastic (col.3, lines 7-8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper in view of Mitchell (US Pat. 3,733,658). Cooper discloses the invention substantially as

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claimed. Cooper does not disclose a first cross-member with a thin disk form, rounded side surface and circular lateral cross-section. However, Mitchell teaches a first cross-member with a thin disk form, a rounded side surface and a circular lateral cross-section (see Fig. 1 and 4) for the purpose of providing a desired circular configuration. In view of Mitchell, it would have been obvious to one having ordinary skill in the art to have modified Cooper's invention including a first cross-member with a thin disk form, rounded and circular in the lateral cross-section in order to provide a desired circular configuration with a flat inner surface and flat outer surface.

Regarding claim 4, Cooper does not disclose an inner surface of a cross-member with a greater area than the area of the outer surface. However, Mitchell teaches an inner surface of a cross-member with a greater area than the area of the outer surface (see Fig.4) for the purpose of providing a desired circular cross-member. In view of Mitchell, it would be obvious to one having ordinary skill in the art to have modified Cooper's invention including an inner surface of a cross-member with a greater area than the area of the outer surface in order to provide a desired circular cross-member which will assure a secured position after being fastened in one or more articles.

Regarding claim 10, Mitchell does not specifically state a second cross-member with a thin disk form. However, Examiner takes Official Notice of provide a second cross-member with a thin disk form as being well known in the art. Therefore, it would be obvious to one having ordinary skill in the art to have modified Mitchell invention's including a second cross-member with a thin disk form as a matter of design choice.

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3. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deschenes (US Pat. 6,427,895). Deschenes discloses the invention substantially as claimed including a needle for dispensing a plastic fastener with a flat bottom, a flat sidewall which extend orthogonally, and a flat flange extending orthogonally inward from the sidewall (see Fig.9), a longitudinal-extending bore with a rectangular cross-section "153" (col. 8, lines 36-41), a longitudinally-extending slot "155", and a sharpened tip "57". Deschenes does not specifically state a pair of sidewalls. Moreover, there is no explicit disclosure of a pair of flanges. Examiner takes Official Notice of the well-known act of including a pair of sidewalls as a matter of design choice. Furthermore, it would be obvious to one having ordinary skill in the art to have modified Deschenes' invention including a pair of sidewalls extended orthogonally up from the flat bottom wall in order to allow a thin disk cross-member to be received and travel freely through the central bore. Also, Examiner takes Official Notice of the well-known act of including a pair of flange as a matter of design choice for the purpose of defining a slot extending longitudinally across the length of the needle. Furthermore, it would be obvious to one having ordinary skill in the art to have modified Deschenes' invention including a pair of flat flanges in order to define a slot extending longitudinally across the length of the needle allowing the connector to extend within the slot while the cross-member is disposed within the bore.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US Pat. 6,129,206) in view of Deschenes (US Pat. 6,427,895). Cooper discloses the invention substantially as claimed including a connector as a thin and straight filament "15" with a first and a second end cross-members "17" and "19" at the first and second end, cross-members with a

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flat inner surface and a flat outer surface (see Fig. 3). Cooper does not disclose a tip, a bore, and a slot. However, Deschenes teaches a needle with a sharpening tip “57” for the purpose of enable its penetration into a desire article, a longitudinally-extending bore “153” for the purpose of receive and transport a cross-member within, and a longitudinally-extending slot “155” for the purpose of permit the connector to extend therethrough while cross member is disposed within the bore. In view of Deschenes, it would have been obvious to one having ordinary skill in the art to have provided Cooper’s invention including a sharpening tip in order to enable the tip to pierce through one or more articles creating a thin slit. Also, it would have been obvious to one having ordinary skill in the art to have provided Cooper’s invention including a longitudinally - extending bore in order to allow a cross-member to be received within and transported through the bore to the needle opening. Also, it would have been obvious to one having ordinary skill in the art to have provided Cooper’s invention including a longitudinally-extending slot larger than the connector in order allow the connector to extend therethrough while cross-member is disposed within the bore.

5. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper as applied to claim 18 above, and further in view of Deschenes. Cooper discloses the invention substantially as claimed. Cooper does not disclose a first cross cross member is in the form of a thin disk. However, Mitchell teaches a first cross-member with a thin disk form, a rounded side surface and a circular lateral cross-section (see Fig. 1 and 4) for the purpose of providing a desired circular configuration. In view of Mitchell, it would have been obvious to one having ordinary skill in the art to have modified Cooper’s invention including a first cross-member with

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a thin disk form, rounded and circular in the lateral cross-section in order to provide a desired circular configuration with a flat inner surface and flat outer surface.

Regarding claim 21, Mitchell does not specifically state a second cross-member with a thin disk form. However, Examiner takes Official Notice of including a second cross-member with a thin disk form as being well known in the art. Therefore, it would be obvious to one having ordinary skill in the art to have modified Mitchell invention's including a second cross-member with a thin disk form as a matter of design choice.

6. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper as applied to claim 18 above, and further in view of Deschenes as applied to claims 12 and 15 above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ueno (US Pat. 5,669,543) and Deschenes et al. (US Pat. 6,047,823) are cited to show similar inventions.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 703-305-8205. The examiner can normally be reached on Monday - Friday: 8:30am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ML
March 11, 2003

A handwritten signature in black ink, appearing to read "Rinaldi I. Rada", with a long horizontal line extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700